THE RULES OF COURT AS ESTABLISHED BY THE SEVERAL STATE COURTS OF ILLINOIS, IN FORCE APRIL 1ST, 1898

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The Rules of Court as Established by the Several State Courts of Illinois, in Force April 1st, 1898
by Robert L. Elliott

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ROBERT L. ELLIOTT

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Illinois Courts.

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RULES OF COURT

AS ESTABLISHED BY THE SEVERAL STATE COURTS OF ILLINOIS,

EMBRACING

THE SUPREME COURT, THE APPELLATE COURT FIRST DISTRICT, AND THE CIRCUIT, SUPERIOR, CRIMINAL, COUNTY, AND PROBATE COURTS OF COOK COUNTY.

IN FORCE APRIL 1ST, 1898.

COMPILED AND ANNOTATED BY
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OF THE CHICAGO BAR.

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RULES OF COURT.

GENERALLY.

Rules of practice are certain orders made by the court for the purpose of regulating the practice of members of the bar and others, which every court of record has the inherent power to prescribe: Owens v. Ranstead, 22 Ill. 161; Halloway v. Freeman, 23 Ill. 197; Finnegan v. Allen, 46 App. 533.

Not only have courts inherent power to prescribe rules of practice, but such power is expressly conferred by statute. Such rules, when established, have the force of law, and are obligatory upon the court itself as well as upon the parties to causes pending before it. While the court may modify or even rescind its rules, yet until it does so it should administer them according to their terms. It has no discretion to apply them or not according to its convenience, unless such discretion is reserved in the rules themselves: Lancaster v. W. & S. W. Ry. Co., 132 Ill. 492; Chi. Anderson Pressed Brick Co. v. Sobkowiak, 148 Ill. 573; Spain v. Thomas, 49 App. 249; Gage v. Eddy, 167 Ill. 102.

Such rules must be reasonable: Owens v. Ranstead, 22 Ill. 161; Grosvenor v. Doyle, 50 App. 31.

They must be in conformity with the general law of the State: C. R. T. & E. R. Co. v. O'Neill, 25 App. 313; Rozier v. Williams, 92 Ill. 187; Linnemeyer v. Miller, 70 Ill. 244; Fisher v. National Bank of Commerce, 73 Ill. 34; Benson v. Johnson, 90 Ill. 94; Hayward v. Ramsey, 74 Ill. 372; Ill. Cent. R. R. Co. v. Haskins, 115 Ill. 302; Harrigan v. Turner, 53 App. 292; Nelson v. Akeson, 1 App. 165; Gormley v. Uthe, 1 App. 170.

They cannot deprive a party of a substantial legal right without his consent, unless it has in some manner become

forfeited under such rules: Crotty v. Wyatt, 3 App. 388; St. L. V. & T. H. R. R. Co. v. Faltz, 19 App. 91.

Court has no power to impose upon parties not in default conditions upon compliance with which alone they can exercise their rights under the law, which the law itself does not impose: Pekin v. Dunkelbury, 40 App. 184.

Although a rule may be broad enough in its terms to embrace cases as to which the court has no right to impose such conditions, it must be a nullity as to such. Yet it may have full force in cases where the court has a right to impose conditions: Moir v. Hopkins, 21 Ill. 557.

Even an objectionable rule recognized and followed is better than an uncertain rule, or even a much better rule enunciated unnecessarily so as to work injuriously on the rights of parties who have relied thereon: Ottawa, O. & F. R. V. R. R. Co. v. McMair, 91 Ill. 102.

A rule may be relaxed in favor of one party where the rights of the opposite party are not prejudiced: Johnson v. Adelman, 35 Ill. 265.

If parties to a suit expressly, tacitly wave compliance with a rule of court, it may, in its discretion, permit them to proceed upon the real merits of the controversy between them: Fischer v. Spane, 43 App. 378; E. St. L. Un. Ry. v. City of E. St. Louis, 39 App. 398. Or it may refuse: Waixel v. Harrison, 35 App. 571.

To make a rule valid it must be written and entered of record and reasonable publicity given to it. It then binds the court as well as the parties: Ill. Cent. R. R. Co. v. Haskins, 115 Ill. 302; Owens v. Ranstead, 22 Ill. 161; Beveridge v. Hewitt, 8 App. 468.

In the absence of a contrary showing, it is presumed that a rule acted on is written, duly published, and made of record: Ill. Cent. R. R. Co. v. Haskins, 115 Ill. 302.

The construction of its own rules is peculiarly within the discretion of the trial court, and its rulings thereon can only be reviewed for manifest and material error: Mix v. Chandler, 44 Ill. 175; Boon v. Moline Plough Co., 81 Ill. 293; Field v. Chicago, Danville & Vincennes Ry. Co., 68 Ill. 367.

Litigants and their counsel are not chargeable with negligence in assuming that rules will be pursued and enforced. C. R. T. Co. v. O'Neill, 25 App. 314.

Judges can amend or alter rules of court any time before trial. Parties have no vested rights in the rules of practice or modes of procedure: Holcomb v. People, 79 Ill. 409. Rescission or modification of rules cannot, however, be made by judges in vacation: Treishal v. McGill, 28 App. 68.

Exception to a rule of court must be taken in the trial court and incorporated in the bill of exceptions: Ill. Cent. R. R. Co. v. Haskins, 115 Ill. 302; Harrigan v. Turner, 53 App. 292; Morgan v. Campbell, 54 App. 242.

Supreme and Appellate Courts do not take judicial notice of the rules of the courts below: Anderson v. McCormick, 129 Ill. 308; Roby v. Title Guar. & T. Co., 166 Ill. 336; Gudgeon v. Casey, 62 App. 599; Kessel v. O'Sullivan, 60 App. 548; Hefling v. Van Zandt, 60 App. 662. The record in which the rules of court are entered is the only competent evidence to prove their existence: Roby v. Title Guar. & Trust Co., 166 Ill. 336; Davis v. Northwestern Elevated R. R. Co., 170 Ill. 595.